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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider
Electric Procurement Policy Refinements
pursuant to the Joint Reliability Plan.

Rulemaking 14-02-001
(Filed February 5, 2014)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGES'
RULING SUSPENDING TRACK 1**

In this ruling, the assigned Commissioner and Administrative Law Judges (ALJs) *suspend* Track 1 of this proceeding pertaining to a two- and/or three-year forward-looking resource adequacy (RA) procurement requirements until further notice. A durable flexible capacity year-ahead program to replace the interim (2015 through 2017) flexible capacity program is being developed in the RA proceeding (Rulemaking 14-10-010). We anticipate returning to the issue of two- and/or three-year RA requirements either in this proceeding or the RA proceeding in conjunction with development of the durable flexible capacity program.

1. Background

R.14-02-001 originated from the Commission's commitment in adopting the Joint Reliability Plan to consider certain issues in this proceeding. As stated in the May 20, 2014 Scoping Memo, these issues (and associated "tracks") are:

1. Two- and/or three-year forward-looking resource adequacy procurement requirements. (Track 1.)
2. Implementing a long term joint reliability planning assessment with the California Independent System

Operator (CAISO) and the California Energy Commission (CEC). (Track 2.)

3. Determining rules and Commission policy positions with respect to the CAISO's development of a market-based backstop procurement mechanism to succeed its existing Capacity Procurement Mechanism which expires in 2016.¹ (Track 3.)

Energy Division (ED) conducted two workshops on May 2, 2014 and May 13, 2014 to discuss Track 1 issues, including: risk of retirement of existing power plants, potential costs and benefits of multi-year requirements for ensuring electric system reliability, and the feasibility and potential mechanics of a multi-year RA program. The workshop discussion informed the options presented for multi-year requirements in the ED "Joint Reliability Plan – Track One Staff Report & Proposal" dated October 2014 (Staff Proposal).

On October 30, 2014 and November 12, 2014, parties filed comments in response to questions outlined in the Staff Proposal and associated ruling.²

On December 4, 2014, the Acting Chief ALJ provided a notice to parties pertaining to a Joint Prehearing Conference (Joint PHC) for both (unconsolidated) proceedings R.14-02-001 and R.14-10-010. Among other things, the Joint PHC was scheduled on December 17, 2014 to consider parties' comments in R.14-02-001 suggesting that certain multi-year RA issues be deferred to or considered in R.14-10-010."³ The Joint PHC also determined party status, positions of the parties, and other procedural matters pertaining to R.14-10-010.

¹ Scoping Memo at 1-2.

² See "Assigned Commissioner and Assigned Administrative Law Judges' Ruling Issuing Staff Report & Proposal" dated October 2, 2014 detailing specifics of Staff Proposal and questions for consideration.

³ Notice of a Joint PHC at 1.

On December 17, 2014, the assigned Commissioners and ALJs held the Joint PHC to discuss “overlap” between the two proceedings and whether “it is reasonable to consider whether and how to mesh issues in the Joint Reliability Plan (JRP) proceeding with those about to be scoped in the RA proceeding.”⁴

2. Joint PHC Questions for Consideration

In preparation for the Joint PHC, parties were asked to consider the following discussion questions:

- 1) Should consideration of multi-year RA requirements for flexible capacity be deferred from the JRP proceeding until a durable flexible capacity program replaces the interim (2015 through 2017) flexible capacity program in the RA proceeding? The RA proceeding is expected to produce a durable flexible capacity program in 2016 or 2017 for implementation starting in the 2018 RA year.
- 2) If consideration of multi-year RA requirements is deferred, should the JRP program develop a “trigger” mechanism (such as the concepts proposed in JRP Staff Report) for implementation of multi-year RA requirements for system and/or local RA? Should this trigger be linked to a Risk of Retirement analysis and/or the Procurement Assessment being conducted under track 2 of the JRP?
- 3) When and in which proceeding should multi-year requirements for system and local be considered?
- 4) Should the California Public Utilities Commission continue analysis related to reliability in the JRP (such as analysis on OTC (Once through Cooling) retirements or the effect of ELCC (Effective Load Carrying Capacity) on forward positions) in addition to the Forward Contracting Assessment being updated and methodology proposed under track 2 of the JRP?

⁴ Joint PHC Transcript at 7.

3. Parties' Comments

3.1. Deferral of Multi-Year RA Program

As summarized in responses to the Staff Proposal and restated at the Joint PHC, nearly all parties believe that the interim flexible RA requirements do not provide an adequate foundation for the development of a permanent one-year or multi-year RA requirements for flexible capacity. The RA proceeding is expected to produce a durable flexible capacity program for implementation in the 2017 or 2018 compliance year.

In response to the question about whether consideration of multi-year requirements should be deferred from the JRP proceeding until a durable flexible capacity program replaces the interim (2015 through 2017) flexible capacity program via the RA proceeding, parties expressed different viewpoints regarding the appropriate venue and timing to resolve this issue, as discussed below.

Based on discussions at the Joint PHC, generators and storage industry representatives do not wish to defer the development of multi-year RA in the present JRP proceeding. Independent Energy Producers Association (IEP) claims that the multi-year and product definition are independent of each other and should be developed in parallel. Calpine Corporation (Calpine) believes that the JRP proceeding should currently develop "system" and "local" requirements and that the RA proceeding should address the development of "flexible" multi-year requirements once the product definition is resolved in mid-2015. Similarly, the California Energy Storage Alliance (CESA) opines that development of flexible capacity requirements should be developed "now" in either the JRP or RA proceeding.

In general, most other parties support the development of multi-year flexible capacity requirements *after 2015* or when the flexible product definition is expected to be resolved. The flexible product definition is expected to be resolved in conjunction with the establishment of a durable, permanent flexible one-year RA program.

CAISO recommends that the Commission close Track 1 and defer consideration of multi-year RA to the RA proceeding “until after the CAISO performs the studies necessary to develop a more durable flexible capacity definition. CAISO supports suspension of Track 1 and for a new track to commence in the RA proceeding in the latter part of 2015 to define a durable flexible capacity product and create multi-year RA requirements.”⁵ CAISO does not support an indefinite delay but contends that a temporary deferral is warranted because “[i]t is becoming increasingly clear that an appropriate long-term RA framework cannot be established without first developing a more precise, durable, and comprehensive flexible capacity solution...”⁶ CAISO also supports considering flexible, local, and system multi-year RA contemporaneously⁷ because considering “all three products in a single proceeding will produce a better, more holistic, and more efficient final outcome.”⁸

Pacific Gas & Electric (PG&E) and San Diego Gas & Electric (SDG&E) support the development of multi-year RA requirements in the RA proceeding in a separate track. The Green Power Institute (GPI) concludes that the multi-year

⁵ CAISO Reply Comments at 1-2.

⁶ CAISO Opening Comments at 1-2.

⁷ CAISO Reply Comments at 2.

⁸ CAISO Opening Comments at 7.

requirements should be developed in the same proceeding as the one-year product. EnerNOC, Inc. also supports this view if a separate rulemaking is not established to address multi-year requirements.

If the JRP proceeding is “ongoing,” then the Office of Ratepayer Advocates (ORA) supports the deferral of multi-year RA requirements, but consideration within the current JRP proceeding. ORA suggests that Track 1 be suspended or “closed” until after the Commission has completed a review of its interim flexible capacity requirements in the RA proceeding.⁹

The Center for Energy Efficiency and Renewable Technologies recommends that the Commission develop a durable annual flexible product first before addressing multi-year RA, and that a strong record be developed for both purposes. Many parties, including Southern California Edison (SCE), California Large Energy Consumer Association (CLECA), The Utility Reform Network (TURN), and the Alliance for Retail Energy Markets, state that they are “agnostic” about whether the multi-year RA requirements are resolved in the JRP or RA proceedings. Parties state that many factors would need to be considered in any future decision about appropriate procedural venue including how the definition of “flexible” capacity may evolve, the number of issues to resolve, the timeline to address key milestones (e.g., CAISO studies), and prevailing supply/demand conditions, for examples.

Shell Energy North America (US), L.P. states that there is “no need” to develop multi-year requirements at the present time because we are in a state of surplus now; parties will know when it may be appropriate because capacity prices will begin to rise. Marin Clean Energy agrees with other parties that it is inappropriate for the Commission to adopt a multi-year RA framework and

⁹ ORA Reply Comments at 2.

should instead focus on linking RA with the Cost Allocation Mechanism (CAM) and Long Term Procurement Plan (Phase 2) issues. NRG Energy, Inc. believes there is no value in implementing multi-year RA and that the Commission should focus on the CAISO's risk of retirement instead.

3.2. Trigger Mechanism

In response to the question about whether the JRP program should develop a "trigger" mechanism (such as the concepts proposed in JRP Staff Report) for implementation of multi-year RA requirements for system and/or local RA if the multi-year requirements are deferred, most parties, including CAISO, PG&E, SDG&E, SCE, GPI, TURN, Calpine, and CLECA, believe that the Commission should not consider a trigger mechanism at the present time. The primary reason for this position is so that parties can first focus on developing the product definition for flexible and long-term RA requirements in the RA proceeding.

Despite common bottom line recommendations, parties argue multiple reasons why the trigger mechanism should not be developed now. CAISO believes that the trigger should only be considered in the event that the Commission later decides that multi-year RA is not necessary. But the CAISO would decline to take a position on that now because it believes that multi-year RA should be implemented. PG&E, GPI, and CLECA emphasize that multi-year RA should be instituted based on a "finding of underlying need" and not on a trigger that the Commission spends a lot of time trying to develop. IEP suggests that a proposed trigger mechanism may not operate as "efficiently" or "effectively" as suggested and would require much time, resources, and modeling and forecasting exercises. SCE warns that the risk of developing a trigger mechanism based upon some broad criteria is potentially missing the

opportunity to meet one or both of the criteria. It cautions that because a trigger mechanism will not mitigate every circumstance, there should be more focus on developing a backstop mechanism and structure that mitigates as fully as possible the risk of retirement. PG&E observes that Commission and parties' plates are full and that adding "one more thing" would add more complexity and difficulty.

Other parties believe that more work needs to be done before a trigger is considered. TURN emphasizes that more work needs to be accomplished in Track 2 but that it probably doesn't need to be formalized into a "trigger mechanism." TURN believes that it is more appropriate to consider the trigger mechanism when the Commission considers the multi-year requirement in the future. Calpine suggests that a trigger based on percentages of forward contracting could be "misleading" until the ELCC policy is implemented, as renewables capacity values are expected to change.

Few parties strongly support Trigger Options "A" or "B" as defined in the Staff Report because they have not been fully developed or still require revisions.

4. Discussion

We agree with most parties that a decision regarding whether and/or how multi-year RA program requirements should be developed (Track 1) should be deferred or suspended until a durable flexible capacity program is considered in the RA proceeding. Since this proceeding was initiated, the importance of the flexible capacity requirements has risen relative to the system and local requirements such that it now makes more sense to develop any multi-year requirements for all types of RA at the same time.

We agree that more studies are necessary to define the appropriate flexible capacity requirements. Because of the interrelatedness of each type of

RA requirement, we find that it would be ineffective and inefficient to consider the possibility of system and local multi-year requirements in a piecemeal way without also considering flexible multi-year requirements. Development of a durable flexible capacity program is within the scope of the RA proceeding, R.14-10-010, since to date the Commission has only adopted an interim flexible RA program. The RA proceeding is the appropriate place to address how future flexibility needs will be determined and how to define a corresponding flexible capacity product.¹⁰ Determining those items for a year-ahead flexible RA program is a prerequisite to implementation of a multi-year flexible RA program.

In conjunction with development of a more permanent flexible capacity requirement for our year-ahead RA program, we can begin to consider designing a multi-year RA program in this proceeding, or place this issue into the scope of R.14-10-010, if specifically required by a Commission decision, or by a joint Ruling in R.14.10-010 and this proceeding.

For the time being, the scope and timeline of Tracks 2 and Track 3 of the proceeding remain the same until further notice. Track 2 will continue to focus on the development of a “Unified Long Term Reliability Planning Assessment.” In 2014, as the first step in developing the planning assessment anticipated in Track 2, Energy Division staff developed an initial survey instrument and collected forward procurement and ownership data. The results of this initial survey informed the proceeding through inclusion of preliminary data shown in the “Joint Reliability Plan Track 1 Staff Report.” Staff is currently revising the initial survey instrument and methodology. Staff intends to hold a workshop on how to improve that process, repeat the survey in 2015, and issue a report on the

¹⁰ R.14-10-010 Scoping Memo dated January 6, 2015 at 4.

results. Staff expects that the survey will result in the development of a procurement database that will be updated annually.

Staff expects to hold a workshop, or workshops, in 2015 to discuss the specific questions to be addressed and analysis to be performed as part of the Unified Long Term Reliability Planning Assessment contemplated in Track 2. These questions include, for example, the specific forward time periods to analyze, the appropriate future scenarios to analyze, and the related modeling assumptions. Staff expects to prepare a report (containing either a proposal or a range of options) after conducting these workshops. Further ruling(s) in this proceeding will establish the timelines for these events and related procedural steps, and seek resolution on questions of confidentiality and transparency, if necessary.

IT IS RULED that Track 1 of this proceeding pertaining to two- and/or three-year forward-looking resource adequacy (RA) procurement requirements is suspended until further notice..

Dated January 16, 2015 at San Francisco, California.

/s/ CARLA J. PETERMAN
Carla J. Peterman
Assigned Commissioner

/s/ MARYAM EBKE for
David M. Gamson
Administrative Law Judge

/s/ COLETTE E. KERSTEN
Colette E. Kersten
Administrative Law Judge